

Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

2000 Biennial Review of Part 68 of the
Commission's Rules and Regulations

CC Docket No. 99-216

**COMMENTS
OF THE
UNITED STATES TELECOM ASSOCIATION**

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June 23, 2000

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SUMMARY

USTA urges the Commission to maintain its policy to protect the public switched network from harmful CPE and continue to provide the force of law to technical criteria designed to protect the network from harm. USTA agrees that an industry process could be responsible for developing technical requirements. USTA recommends that the Commission follow option A to established a “gatekeeper” to govern the standards development process and identify standards developed by SDOs to be used to evaluate terminal equipment. However, USTA believes that the “gatekeeper” and the actual development of standards should be separate functions. An existing industry SDO should not also serve as “gatekeeper”. The creation of a separate Federal Advisory Committee might be one way to establish an independent “gatekeeper”. Options B and C raise significant concerns and do not appear to meet the Commission’s objectives. USTA suggests that the term telecommunications service provider replace telephone company in the Part 68 rules. Finally, USTA opposes self-verification for equipment approval. Any equipment registration should require certification by a TCB. USTA agrees that a national database of all registered CPE be maintained.

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The United States Telecom Association (USTA) respectfully submits its comments in the above-referenced proceeding. USTA is the nation's oldest trade organization for the local exchange carrier (LEC) industry. USTA represents more than 1,200 telecommunications companies worldwide. Its carrier members provide a full array of voice, data and video services over wireline and wireless networks. USTA members support the concept of universal service. USTA's members are subject to Part 68 of the Commission's rules.

USTA participated in the public forum held by the Common Carrier Bureau in July 1999 to solicit input for this rulemaking proceeding. In its comments, USTA urged the Commission to maintain its policy to protect the public switched network from harmful customer premises equipment (CPE). USTA noted that this policy, which has served as the basis for the equipment registration and certification process, has been an essential element of the terminal equipment interconnection program in the U.S. and continues to be a valid policy beneficial to telephone companies, consumers and manufacturers. However, USTA has also been strongly supportive of the Commission's efforts to eliminate rules that have become unnecessary due to growing competition as well as evolving technology. Thus, USTA concluded that it is possible to transfer responsibility for the development of new, as well as for the maintenance of existing technical requirements, to the private sector. USTA also explained that Telecommunications Certification

Bodies could be qualified to certify equipment. However, USTA recommended that the Commission maintain or oversee a database in one location that records all granted registrations.

In a NPRM released May 22, 2000, the Commission is proposing to streamline the process by which technical criteria are established to ensure that CPE does not harm the public switched telephone network and the process by which CPE that meets the technical criteria is registered.¹ USTA provides the following comments on the Commission's proposals.

Need for Technical Criteria to Protect the Network

USTA, along with the vast majority of parties participating in the public forum, support the maintenance of technical criteria to protect the public switched telephone network from harm. The four types of harm currently embodied in the Part 68 rules continue to represent a valid enunciation of the types of harm against which the public switched telephone network must continue to be protected.

The technical criteria which have been developed pursuant to the Commission's equipment registration process are necessary and should continue to serve as the guidelines to be used by equipment designers and evaluators in testing equipment to predict the degree to which any equipment might harm the network prior to actual connection. USTA believes that this process has been successful to date. The technical requirements are the cornerstone of the process and must be maintained and the four types of harm specified in the rules serve as the underlying basis for the technical requirements. Accordingly, these requirements should be maintained.

Not only is it necessary to maintain the structure of a well-tested and proven process to ensure that domestic manufacturers develop equipment that will not harm the network, it is also

¹ 2000 Biennial Regulatory Review of Part 68 of the Commission's Rules and Regulations, CC Docket No. 99-216, Notice of Proposed Rulemaking, FCC 00-171 (rel. May 22, 2000).

necessary to ensure that equipment manufactured overseas which has the potential to harm the network be excluded. Without an established, proven set of evaluation criteria, USTA believes that it would be impossible to maintain a consistent process to exclude equipment that is potentially harmful and to accept equipment that is not.

Relative Roles of the Government and Industry in Establishing Technical Criteria

As stated in its prior comments, USTA believes that it is possible to develop a set of conditions by which industry standards setting bodies could be employed to replace the current process. The Commission tentatively concludes, however, that the government must continue to provide the force of law to technical criteria designed to protect the network from harm. USTA strongly supports this conclusion. The enforcement of the Commission's policy to protect the public switched network is critical, especially when the technical criteria will be established by industry. The Commission must maintain its commitment to this policy through its enforcement authority.

USTA also agrees with the Commission's tentative conclusion that an industry process could develop new technical requirements and modify existing requirements in a more timely manner to better respond to evolving technology.

The Commission has identified three options for private development of technical criteria. USTA believes that Option A, utilizing a "gatekeeper", is preferable to the other options. Establishing a "gatekeeper" function will provide the best opportunity for the Commission to deregulate the development of technical criteria while maintaining its authority to ensure that the network is protected from harm, that approval of terminal equipment is conducted in a timely manner, and that the technical criteria are responsive to new technology. Accordingly, USTA agrees that a "gatekeeper" should be established to govern the standards

development process and identify standards developed by Standards Development Organizations (SDOs), in accordance with American National Standards Institute procedures for consensus bodies, to be used to evaluate terminal equipment. However, as will be explained below, USTA believes that the “gatekeeper” and the actual development of standards should be separate functions. An existing industry SDO should not also serve as “gatekeeper”. The “gatekeeper” should oversee the development of technical criteria by the SDOs. Separating these functions will ensure that the decisions and conclusions of the “gatekeeper” will not be subject to potential conflicts of interest that could result if an industry SDO also served as “gatekeeper”.

For example, whenever a new technical standard is needed, the “gatekeeper” should select a particular SDO to develop the standard. It is possible that a gatekeeper SDO would be one of the potential candidates. When changes to an existing standard are required, the gatekeeper SDO could be the originator of the standard and may, therefore have a vested interest in becoming a candidate to develop the changes. The management resources of a gatekeeper SDO would inevitably be divided between its gatekeeper function and its own business function. Further, USTA would suggest that the gatekeeper have input into the registration process as well which would not be appropriate for an industry SDO.

Forming a new group with sole responsibility for performing the responsibilities of the gatekeeper is the best way to minimize challenges to its decisions that would then have to be arbitrated by the Commission. In its prior comments, USTA suggested that a Federal Advisory Committee might be one way to establish a gatekeeper. The gatekeeper should be composed of a diverse group of industry experts, representing all facets of the industry. It should be responsible solely to the Commission. It must have established procedures for conducting meetings and making decisions that are documented and public.

Option B, multiple standards organizations, is problematic in that it could create competition in standards development and could result in the development of multiple standards for a particular product. Such a result would necessarily complicate the registration process. The process by which technical criteria are developed is far too important to risk such potential consequences.

Option C, incorporating specific standards by reference, is least likely to meet the Commission's objectives in this proceeding. A rulemaking process would be required to incorporate standards into the rules, thus slowing the process and increasing uncertainty during the pendency of any rulemaking proceeding. Given the rapid pace of technology and the evolutionary aspect of the wireline network, a timely, direct and efficient process is needed.

Clarification of Terminology in Part 68.

The terminology in Part 68 should be changed from telephone company to better reflect the entrance of other entities into the local telephone business. Adherence to the policy to prevent harm to the wireline network should apply to all CPE used to provide telecommunications services, without regard to specific company identities. USTA suggests that the term telecommunications service provider may be more appropriate than local exchange carrier and should be used in the Commission's rules.

Regulatory Paradigm for Equipment Approval

Any equipment registration should require certification by a Telecommunications Certification Body (TCB). TCBs should be accredited by the National Institute of Standards and Technology.

The Declaration of Conformity and "verification" options raise significant concerns. A company that wants to register a piece of equipment should reasonably be expected to work with

a TCB. A manufacturer or vendor should not be allowed to test, evaluate and register any equipment solely on its own authority, even if that manufacturer is itself a TCB. Such authority creates the potential for significant abuse and is not the appropriate long-term structure. Further, a manufacturer should not be permitted to use “verification” procedures to establish a basis for registration. All registrations should be attested to by a separate TCB. The TCB, in turn, should be permitted flexibility in order to accept measurements from nonauthorized entities. The TCB, not the manufacturer of the equipment, must stand behind the validity of its decision regarding the potential of equipment to harm the network. The Commission must ensure that deregulation will not disrupt the longstanding presumption that equipment that carries a registration label does not to pose a threat of harm to the network. Self-verification is not appropriate.

Finally, as noted in its previous comments, USTA supports the Commission’s tentative conclusion that a national database of all registered CPE be maintained. Detailed registration test files need not be included in the database. It may be possible to use “blocks” of numbers or other methods to facilitate TCB registration.

Conclusion.

In summary, USTA urges the Commission to maintain its policy to protect the public switched network from harmful CPE and continue to provide the force of law to technical criteria designed to protect the network from harm. USTA agrees that an industry process could be responsible for developing new technical requirements. USTA recommends that the Commission follow option A to establish a “gatekeeper” to govern the standards development process and identify standards developed by SDOs to be used to evaluate terminal equipment. However, USTA believes that the “gatekeeper” and the actual development of standards should be separate functions. An existing industry SDO should not also serve as “gatekeeper”. The

creation of a separate Federal Advisory Committee might be one way to establish an independent "gatekeeper". USTA suggests that the term telecommunications service provider replace telephone company in the Part 68 rules. Finally, USTA opposes self-verification for equipment approval. Any equipment registration should require certification by a TCB.

Respectfully submitted,

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